

**ISSUANCE OF A FOOD AND BEVERAGE CERTIFICATE TO
HOLDERS OF CERTAIN ALCOHOLIC BEVERAGE PERMITS
AND LICENSES**

CHAPTER 466

H.B. No. 2101

AN ACT

relating to the issuance of a food and beverage certificate to holders of certain alcoholic beverage permits and licenses.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 25.13, Alcoholic Beverage Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (a-1) and (b-1) to read as follows:

(a) *In this section, "location" means the designated physical address of the wine and beer retailer's permit and includes all areas at the address where the permit holder may sell or deliver alcoholic beverages for immediate consumption regardless of whether some of those areas are occupied by other businesses.*

(a-1) A holder of a wine and beer retailer's permit may be issued a food and beverage certificate by the commission if *the commission finds that the receipts from the sale of alcoholic beverages by the permit holder at the location are 60 percent or less of the total receipts from the location* ~~[food service is the primary business being operated on the premises by the permittee].~~

(b) A ~~[An applicant or holder of a]~~ food and beverage certificate *may not be issued unless the location has permanent* ~~[shall have]~~ food service facilities for the preparation and service of multiple entrees for consumption at the location.

(b-1) The commission shall adopt rules *requiring* ~~[as necessary to assure that]~~ the holder of a food and beverage certificate *to assure that permanent* ~~[maintains]~~ food service facilities for the preparation and service of multiple entrees for consumption at the location *are available at the location* ~~[as the primary business on the premises for which a food and beverage certificate has been issued]~~. The commission may exempt permittees who are concessionaires in public entertainment venues such as sports stadiums and convention centers from Subsections (a-1) and (b) ~~[the requirement that food service be the primary business on the premises]~~.

(d) A certificate issued under this section expires on the expiration of the primary wine and beer retailer's permit. A certificate may be canceled at any time, *and the renewal of a certificate may be denied*, if the commission finds that the holder of the certificate is in violation of Subsection (a-1) or (b) or a rule adopted under Subsection (b-1) ~~[not operating primarily as a food service establishment. For the purposes of this section, it shall be presumed that a permittee is not primarily operating as a food service establishment if alcohol sales are in excess of 50 percent of the gross receipts of the premises]. On~~ ~~[The commission may impose a fine not to exceed \$5,000 on the holder of a food and beverage certificate not operating as a food service establishment and may, upon]~~ finding that the permittee knowingly operated under a food and beverage certificate while not complying with this section or a rule adopted under Subsection (b-1), *the commission may cancel or deny the renewal of the permittee's wine and beer retailer's permit. The holder of a wine and beer retailer's permit whose certificate has been canceled or who is denied renewal of a certificate under this subsection may not apply for a new certificate until the day after the first anniversary of the date the certificate was canceled or the renewal of the certificate was denied.*

SECTION 2. Section 28.18, Alcoholic Beverage Code, is amended by amending Subsections (a), (b), and (e) and adding Subsections (a-1) and (b-1) to read as follows:

(a) *In this section, "location" means the designated physical address of the mixed beverage permit and includes all areas at the address where the permit holder may sell or deliver alcoholic beverages for immediate consumption regardless of whether some of those areas are occupied by other businesses.*

(a-1) A holder of a mixed beverage permit may be issued a food and beverage certifi-

cate by the commission if *the commission finds that the* ~~[gross]~~ receipts from the sale of alcoholic ~~[of mixed]~~ beverages ~~[sold]~~ by the permit holder at the location are 60 ~~[50]~~ percent or less of the total ~~[gross]~~ receipts from the location ~~[premises]~~.

(b) A ~~[An applicant or holder of a]~~ food and beverage certificate *may not be issued unless the location has permanent* ~~[shall have]~~ food service facilities for the preparation and service of multiple entrees for consumption at the location.

(b-1) The commission shall adopt rules *requiring* ~~[as necessary to assure that]~~ the holder of a food and beverage certificate *to assure that permanent* ~~[maintains]~~ food service facilities for the preparation and service of multiple entrees for consumption at the location are available at the location ~~[on the premises for which a food and beverage certificate has been issued]~~. The commission may exempt permittees who are concessionaires in public entertainment venues such as sports stadiums and convention centers from Subsections (a-1) and (b).

(e) A certificate issued under this section expires on the expiration of the primary mixed beverage permit. A certificate may be canceled at any time, and the renewal of a certificate may be denied, if the commission finds that the holder of the certificate is in violation of Subsection (a-1) or (b) or a rule adopted under Subsection (b-1). On finding that the permittee knowingly operated under a food and beverage certificate while not complying with this section or a rule adopted under Subsection (b-1), the commission may cancel or deny the renewal of the permittee's mixed beverage permit. A mixed beverage permit issued in an area where the legal sale of mixed beverages was authorized by a local option election under Section 501.035(b)(9), Election Code, is canceled by operation of law if the food and beverage certificate is canceled or is not renewed. The ~~[A]~~ holder of a mixed beverage permit whose certificate has been canceled or who is denied renewal of a certificate under this subsection may not apply for a new certificate until the day after the first anniversary of the date the certificate was canceled or the renewal of the certificate was denied ~~[determination of the comptroller under Subsection (d)]~~.

SECTION 3. Section 32.23, Alcoholic Beverage Code, is amended by amending Subsections (a), (b), and (e) and adding Subsections (a-1) and (b-1) to read as follows:

(a) In this section, "location" means the designated physical address of the private club registration permit and includes all areas at the address where the permit holder may serve or deliver alcoholic beverages for immediate consumption regardless of whether some of those areas are occupied by other businesses.

(a-1) A holder of a private club registration permit may be issued a food and beverage certificate by the commission if *the commission finds that the* ~~[gross]~~ receipts from the service of alcoholic ~~[mixed]~~ beverages ~~[served]~~ by the permit holder at the location are 60 ~~[50]~~ percent or less of the total ~~[gross]~~ receipts from the location ~~[premises]~~.

(b) A ~~[An applicant or holder of a]~~ food and beverage certificate *may not be issued unless the location has permanent* ~~[shall have]~~ food service facilities for the preparation and service of multiple entrees for consumption at the location.

(b-1) The commission shall adopt rules *requiring* ~~[as necessary to assure that]~~ the holder of a food and beverage certificate *to assure that permanent* ~~[maintains]~~ food service facilities for the preparation and service of multiple entrees for consumption at the location are available at the location ~~[on the premises for which a food and beverage certificate has been issued]~~. The commission may exempt permittees who are concessionaires in public entertainment venues such as sports stadiums and convention centers from Subsections (a-1) and (b).

(e) A certificate issued under this section expires on the expiration of the primary private club registration permit. A certificate may be canceled at any time, and the renewal of a certificate may be denied, if the commission finds that the holder of the certificate is in violation of Subsection (a-1) or (b) or a rule adopted under Subsection (b-1). On finding that the permittee knowingly operated under a food and beverage certificate while not complying with this section or a rule adopted under Subsection (b-1), the commission may cancel or deny the renewal of the permittee's private club registration permit. The ~~[A]~~ holder of a private club registration permit whose certificate has been canceled or who is

denied renewal of a certificate *under this subsection* may not apply for a new certificate until the day after the first anniversary of the *date the certificate was canceled or the renewal of the certificate was denied* ~~[determination of the comptroller under Subsection (d)]~~.

SECTION 4. Section 69.16, Alcoholic Beverage Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (a-1) and (b-1) to read as follows:

(a) *In this section, "location" means the designated physical address of the retail dealer's on-premise license and includes all areas at the address where the license holder may sell or deliver alcoholic beverages for immediate consumption regardless of whether some of those areas are occupied by other businesses.*

(a-1) A holder of a retail dealer's on-premise license may be issued a food and beverage certificate by the commission if *the commission finds that the receipts from the sale of alcoholic beverages by the license holder at the location are 60 percent or less of the total receipts from the location* ~~[food service is the primary business being operated on the premises by the permittee]~~.

(b) A ~~[An applicant or holder of a]~~ food and beverage certificate *may not be issued unless the location has permanent* ~~[shall have]~~ food service facilities for the preparation and service of multiple entrees for consumption at the location.

(b-1) The commission shall adopt rules *requiring* ~~[as necessary to assure that]~~ the holder of a food and beverage certificate *to assure that permanent* ~~[maintains]~~ food service facilities for the preparation and service of multiple entrees for consumption at the location *are available at the location* ~~[as the primary business on the premises for which a food and beverage certificate has been issued]~~. The commission may exempt licensees ~~[permittees]~~ who are concessionaires in public entertainment venues such as sports stadiums and convention centers from Subsections (a-1) and (b) ~~[the requirement that food service be the primary business on the premises]~~.

(d) A certificate issued under this section expires on the expiration of the primary retail dealer's on-premise license. A certificate may be canceled at any time, *and the renewal of a certificate may be denied*, if the commission finds that the holder of the certificate is in violation of Subsection (a-1) or (b) or a rule adopted under Subsection (b-1) ~~[not operating primarily as a food service establishment. For the purposes of this section, it shall be presumed that a permittee is not primarily operating as a food service establishment if alcohol sales are in excess of 50 percent of the gross receipts of the premises]. On~~ ~~[The commission may impose a fine not to exceed \$5,000 on the holder of a food and beverage certificate not operating as a food service establishment and may, upon]~~ finding that the licensee ~~[permittee]~~ knowingly operated under a food and beverage certificate while not complying with this section or a rule adopted under Subsection (b-1), *the commission may cancel or deny the renewal of the licensee's retail dealer's on-premise license. The holder of a retail dealer's on-premise license whose certificate has been canceled or who is denied renewal of a certificate under this subsection may not apply for a new certificate until the day after the first anniversary of the date the certificate was canceled or the renewal of the certificate was denied.*

SECTION 5. Sections 28.18(d) and 32.23(d), Alcoholic Beverage Code, are repealed.

SECTION 6. (a) As soon as practicable after the effective date of this Act, the Texas Alcoholic Beverage Commission shall adopt the rules necessary to implement this Act.

(b) The changes in law made by this Act apply only to an application for a food and beverage certificate that is filed on or after the effective date of the rules adopted under Subsection (a) of this section.

SECTION 7. This Act takes effect September 1, 2017.

Passed by the House on May 4, 2017: Yeas 143, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2101 on May 26, 2017, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 2101 on May 28, 2017: Yeas 147, Nays 0, 2 present, not voting; passed by the Senate, with amendments, on May 24, 2017: Yeas 30, Nays 1; at the

request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 2101 on May 28, 2017: Yeas 28, Nays 1, 1 present, not voting.

Approved June 9, 2017.

Effective September 1, 2017.

CERTAIN WORKERS' COMPENSATION REPORTING REQUIREMENTS

CHAPTER 467

H.B. No. 2112

AN ACT

relating to certain workers' compensation reporting requirements.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 402.066(a), Labor Code, is amended to read as follows:

(a) The commissioner shall consider and recommend to the legislature changes to this subtitle~~[-, including any statutory changes required by an evaluation conducted under Section 402.074].~~

SECTION 2. Section 406.007(a), Labor Code, is amended to read as follows:

(a) An employer who terminates workers' compensation insurance coverage obtained under this subtitle shall file a written notice with the division ~~[by certified mail]~~ not later than the 10th day after the date on which the employer notified the insurance carrier to terminate the coverage. The notice must include a statement certifying the date that notice was provided or will be provided to affected employees under Section 406.005.

SECTION 3. Section 406.008(a), Labor Code, is amended to read as follows:

(a) An insurance company that cancels a policy of workers' compensation insurance or that does not renew the policy by the anniversary date of the policy shall deliver notice of the cancellation or nonrenewal *to the division, and by certified mail, [or] in person, or by electronic means in accordance with Chapter 35, Insurance Code, to the employer, [and the division]* not later than:

(1) the 30th day before the date on which the cancellation or nonrenewal takes effect; or

(2) the 10th day before the date on which the cancellation or nonrenewal takes effect if the insurance company cancels or does not renew because of:

(A) fraud in obtaining coverage;

(B) misrepresentation of the amount of payroll for purposes of premium calculation;

(C) failure to pay a premium when due;

(D) an increase in the hazard for which the employer seeks coverage that results from an act or omission of the employer and that would produce an increase in the rate, including an increase because of a failure to comply with:

(i) reasonable recommendations for loss control; or

(ii) recommendations designed to reduce a hazard under the employer's control within a reasonable period; or

(E) a determination made by the commissioner of insurance that the continuation of the policy would place the insurer in violation of the law or would be hazardous to the interest of subscribers, creditors, or the general public.